

Experts say ordinance can't stop freeway

By Doug Murphy
Staff Writer

State plans call for a 10-lane freeway cutting through the southwest corner of South Mountain Park, the largest municipal park in the country, requiring deep cuts in three ridges that are significant to the Gila River Indian Community and important to the migration of wildlife from the mountain to the nearby plains.

But freeway opponents are hoping that a city park preserve ordinance passed by Phoenix voters in 1985 will halt the state from taking 32 acres of parkland

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needed for the freeway.

The ordinance says that no mountain preserve land can be sold or redesignated unless Phoenix voters give the OK.

But the Arizona Department of Transportation (ADOT) and legal experts say state law trumps the city when it comes to acquiring land for freeways.

"What's been indicated back to us is that the city charter ordinance passed in 1985, according to legal counsel, conflicts with the state's power of eminent domain and cannot be used to prevent the state's acquiring right of way through the park," said Doug Nintzel, an ADOT spokesman.

A similar Arizona state statute, A.R.S. 28-704, also prevents the state from building in mountain preserves without a vote, but it specifically grandfathered in highways that were on the map before 1990. The South Mountain Loop 202 was officially added to the Valley's transportation system in 1988.

"Under state law, the South Mountain Freeway would qualify as a state route that is exempt from a vote," Nintzel said.

Councilman Greg Stanton has talked

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—Greg Stanton

to city legal staff and reluctantly agrees.

"The state has legal authority to condemn the land, not that it means it's the right thing to do," he said.

But Stanton is hoping that another route can be found, off Pecos and away from the park, on the Gila River Indian Community.

"When there is another solution out there, I believe it needs to be pursued by ADOT and the state to prevent harm to the beautiful desert preserve," Stanton said. "So we don't have to blow up the 800-foot-wide, 200-foot-deep cut through the mountain, a significantly larger cut then was proposed 25 years ago."

ADOT has been conducting a study to update the original 1988 route and hopes to have a draft environmental impact statement ready this summer, with a route approved by next year.

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